

REMARKS

Claims 12-22 have been canceled. Claims 1-11, 32, 36 and 40 have been amended. New claims 41 and 42 have been added. Support for the amendments and new claims can be found in the Specification and claims as originally filed. No new matter has been introduced by this amendment.

Restriction to one of the following groups was required under 35 USC §112 and 372:

- Group I Claims 1-22 and 40, drawn to T cell reactive peptides derived from Hev b 5 and a kit thereof.
- Group II Claims 23-26, drawn to antibodies to Hev b 5 and a kit thereof.
- Group III Claims 27-30, drawn to B cell reactive peptides and kits thereof.
- Group IV Claim 31, drawn to nucleic acids encoding T cell reactive peptides derived from Hev b 5.
- Group V Claim 31, drawn to nucleic acids encoding B cell reactive peptides derived from Hev b 5.
- Group VI Claims 32-36, drawn to methods of treating allergy with T cell reactive peptides.
- Group VII Claims 32-36, drawn to methods of treating allergy with B cell reactive peptides.
- Group VIII Claims 32-36, drawn to methods of treating Hev b 5 allergy with antibodies to Hev b 5.
- Group IX Claims 37-38, drawn to methods of diagnosing allergy with B cell reactive peptides to detect antibodies.
- Group X Claims 37-38, drawn to methods of diagnosing allergy with T cell reactive peptides.
- Group XI Claim 39, drawn to detecting Hev b 5 with antibodies.

In response to this restriction requirement, Applicant elects Group I, that is Claims 1-22 and 40 (now Claims 1-11 and 40-43) with traverse. Specifically, traverses the Examiner's finding that Groups I, II and IV are drawn to separate inventions. This application is the national phase under § 371 of an International Application. As such, the unity of invention standard of 37 C.F.R. § 1.475 applies to this application. Pursuant to 37 C.F.R. § 1.475(a), a single application can relate to "a group of inventions so linked as to form a single general inventive concept."

M.P.E.P. § 1893.03(d) further explains that a “group of inventions is considered to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature.”

The invention of the claims of Groups I, II and IV involve at least one common special technical feature, specifically the identification of the Hev b 5 T cell epitopes. The Hev b 5 T cell peptide epitopes of Group I, the antibodies that recognize these epitopes of Group II, and the nucleic acids encoding the epitopes of Group IV all involve the special technical features of these epitopes. Therefore, these groups are not properly restrictable under 37 C.F.R. § 1.499., and withdrawal of the requirement to elect between these groups is respectfully requested.

Additionally, the Examiner has requested restriction between product and process claims. Applicant has elected the product claims of Group I. The method claims of Groups VI and X all ultimately dependent on claims of the elected group. Accordingly, upon allowance of the Group I claims, rejoinder of the claims of Groups VI and X under M.P.E.P. §821.04 will be proper. Accordingly, upon allowance of the Group I claims, consideration and allowance of the Group VI and X claims is respectfully requested.

Notwithstanding any of the foregoing, Applicant reserves full rights to pursue the subject matter of any of the non-elected groups in related applications.

Election of Species

Additionally, election of a single species of peptides has been required by the Examiner if Group I is elected. Applicant hereby elects the species of SEQ ID NO: 7 with the understanding that upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. 1.141. Currently, Claims 1, 2, 8, 9 and 40 are generic.

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CONCLUSION

In view of the foregoing, Applicant respectfully requests that this application be passed to issuance. If any points remain that can be resolved by telephone, the Examiner is invited to contact the undersigned at the below-given telephone number.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

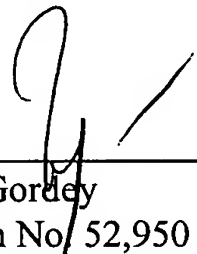
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

June 3, 2005

By: _____


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